



September 1, 2016

Andy Slavitt, Acting Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

*Submitted online at [medicaid.gov](http://medicaid.gov)*

Re: Comments on MassHealth 1115 Demonstration Project Amendment and Extension Request

Dear Administrator Slavitt,

On behalf of the Affordable Care Today (ACT!!) Coalition, thank you for the opportunity to comment on MassHealth's Section 1115 Demonstration Project Amendment and Extension Request. The ACT!! Coalition was formed in 2005 to advocate for comprehensive health reform in the Commonwealth, and continues to advance the goals of affordable health coverage for Massachusetts residents. The coalition includes consumer, provider, health care advocacy, labor, community and faith-based organizations.

Overall, the ACT!! Coalition supports the MassHealth 1115 waiver proposal, and the opportunity it provides to enhance the Commonwealth's Medicaid program, as well as bolster the gains we have made in coverage and access. We also appreciate MassHealth's thoughtful and open stakeholder engagement process throughout the development of this waiver.

The ACT!! Coalition is dedicated to ensuring that Massachusetts residents have access to affordable, quality health coverage. We appreciate MassHealth's commitment to prioritizing this goal. As such, we support the proposals intended to increase access to services for low-income residents, including:

- Eliminating copays for MassHealth members with income at or below 50% of the federal poverty level (FPL);
- Assuring the sustainability of the CommonHealth program for working disabled adults age 65 and older;
- Ensuring the sustainability and affordability of the ConnectorCare program;
- Providing continuous eligibility through the duration of the Student Health Insurance Plan (SHIP) period for enrollees receiving Premium Assistance for SHIPs; and
- Expanding MassHealth substance use disorders (SUD) treatment services.

However, we oppose several proposed changes to the MassHealth program that would restrict access to care for members, including:

- Eliminating coverage of chiropractic services, eye glasses, hearing aids, orthotics or other state plan services in the Primary Care Clinician (PCC) plan;
- Increasing copays for members enrolled in the PCC plan, in relation to MCO members;

- Expanding the list of services to which copays apply; and
- Potentially increasing premiums for enrollees with incomes at or above 150% FPL.

### **PCC Plan Benefit Restrictions (Sections 4.4 and 8.3)**

We understand that MassHealth’s proposed changes to the PCC Plan intend to incentive members to enroll in an MCO and one of the new ACO models. However, we believe the proposed policies will impose barriers to care for members remaining in the PCC Plan, particularly for people with disabilities who have established relationships with their providers. Members should not have to choose between seeing their preferred providers and having access to the full range of MassHealth benefits. We urge you not to implement PCC Plan benefit reductions or copay increases.

In its waiver proposal MassHealth provides examples of the benefits it would eliminate for members enrolled in the PCC Plan, but seeks authority to exclude any type of benefit, mandatory or optional, to anyone enrolled in the PCC Plan. It proposes to set aside fundamental precepts of the Medicaid Act – categorically eligible individuals are entitled to all state plan services, children and youth under age 21 are entitled to all optional Medicaid services under EPSDT, and people enrolled in managed care are entitled to the same services as those enrolled in fee for service. In Massachusetts the categorically eligible include pregnant women, children, parents, individuals with disabilities, the elderly, and other adults. Medicaid members are entitled to all state plan services regardless of their choice of managed care.<sup>1</sup>

MassHealth MCOs provide good quality care and are the right choice for many beneficiaries, but an MCO is not the right choice for everyone. Most MassHealth MCOs’ provider networks exclude some providers who are still available in the PCC Plan. The PCC Plan has been a lifeline for medically complex patients, including people with disabilities, when faced with narrow provider networks and other restrictions in the MassHealth MCOs that would not meet their needs. For these members, switching to an MCO may disrupt their ability to see the providers they know and trust. The PCC Plan benefit reductions present an unreasonable choice for members who wish to maintain long-standing relationships with their primary care providers, particularly if the PCP does not participate in an ACO.

The proposed benefit reductions also violate state law. The services identified to date were all services provided in the PCC Plan as of January 1, 2002. Under state law, MassHealth is not empowered to offer fewer services than those covered as of January 1, 2002 except with respect to dental services.<sup>2</sup> In January 2016, the Governor proposed legislation for the state fiscal year 2017 budget that would have authorized the agency to “restructure” any benefits notwithstanding c. 118E, § 53. Both the House and the Senate rejected the Governor’s legislation and it was not enacted. The demonstration proposal to deny services to those enrolled in the PCC Plan would violate state law, and the Secretary has no authority to waive state law.

Further, categorically eligible children and youth under the age of 21 are entitled to Early and Periodic Screening Diagnostic and Treatment (EPSDT) services that include all mandatory and optional Medicaid services, whether or not a state has otherwise elected to offer such services.<sup>3</sup> EPSDT includes all medically necessary Medicaid services regardless of what is in the state plan, and provides comprehensive coverage for dental, vision, hearing, and medical screenings and treatment. Children and

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<sup>1</sup> See 42 CFR § 438.206 (a).

<sup>2</sup> M.G.L. c. 118E, § 53 as amended by SFY 2017 General Appropriations Act, Acts of 2016.

<sup>3</sup> 42 U.S.C. §§ 1396a(a)(10)(A), 1396a(a)(43), 1396d(a)(4)(B), 1396d(r).

youth enrolled in all types of managed care, including PCC Plans, “are entitled to the same EPSDT benefits they would have in a fee for service Medicaid delivery system.”<sup>4</sup> We recently have been informed that MassHealth has removed from their waiver proposal application of the PCC benefit cuts to children under age 21. We support this decision, as applying differential benefits to children and youth enrolled in Medicaid violates EPSDT. We further encourage CMS to ensure that the overall proposal to offer fewer benefits in the PCC plan is not included in the approved waiver.

#### **Premiums and Cost-Sharing (Sections 4.4 and 8.3)**

Data from Oregon and Connecticut Medicaid programs show that higher cost-sharing contributes to Medicaid disenrollment.<sup>5</sup> In Oregon, those who left Medicaid programs due to higher cost-sharing had lower primary care utilization and higher emergency room visits.<sup>6</sup> A Kaiser Family Foundation report describes how higher cost-sharing results in delayed care and poorer health outcomes.<sup>7</sup> Increased cost-sharing for Medicaid enrollees leads to access barriers and puts greater strain on safety net resources, shifting costs rather than saving costs or improving health outcomes.

We oppose MassHealth’s proposal to implement higher cost-sharing for PCC Plan members relative to ACO/MCO members. Section 8.3.4 of the waiver proposal states that differential copayments will remain nominal (as required by the Act), and refers to updating cost-sharing in accordance with the ACA, yet it seeks authority to disregard the limits established under the Act. In addition, Section 4.4 of the waiver proposal refers to updating the out-of-pocket cost-sharing schedule including premiums and copays in 2018 – eliminating copays for those under 50% FPL, recalibrating the premium schedule for those over 150% FPL and expanding the list of services to which copays apply. However, the waiver proposal does not include a sufficient amount of detail to explain what aspect of the premium and cost-sharing provisions in reference to § 1902(a)(14) of the Act would not apply to whatever changes the agency has in mind, nor to allow for meaningful comment. We understand that MassHealth intends to initiate a public stakeholder process before implementing these changes, which we appreciate. However, we believe that MassHealth should include more details in the waiver proposal itself explaining the rationale for waiving § 1902(a)(14) of the Act and plans for reassessing premiums and copays in the MassHealth program.

#### **ConnectorCare Program (Section 6.2)**

We applaud EOHHS and the Health Connector for ensuring that ConnectorCare premiums and cost-sharing remain affordable. In a high cost state like Massachusetts, many residents living at or below 300% FPL are struggling to make ends meet and will not be able to afford the additional premiums or cost-sharing if the ConnectorCare program is not available.

In addition to premium assistance, ConnectorCare plans include reasonable copays for services, and do not impose deductibles or coinsurance. Reverting to federal premium and cost-sharing levels would expose low and moderate income individuals and families to higher out-of-pocket costs, which may include deductibles and coinsurance, well above what is required through ConnectorCare. Without the

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<sup>4</sup> Centers for Medicare and Medicaid Services, EPSDT - A Guide for States: Coverage in the Medicaid Benefit for Children and Adolescents, June 2014. Available at: <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/ByTopics/Benefits/Early-and-Periodic-Screening-Diagnostic-and-Treatment.html>.

<sup>5</sup> <https://www.cthealth.org/wp-content/uploads/2011/04/Policy-Brief-2-Proposed-Medicaid-Cost-Sharing-Evaluating-The-Impact.pdf>.

<sup>6</sup> <http://content.healthaffairs.org/content/24/4/1106.full>.

<sup>7</sup> <https://kaiserhealthnews.files.wordpress.com/2014/07/8417.pdf>.

ConnectorCare program, we risk residents dropping coverage, going without necessary care, falling into debt, and unraveling the gains we have made under the Massachusetts health reform law and the ACA.

The sustainability of the Commonwealth's coverage gains, made possible by offering affordable coverage through MassHealth and the Health Connector, requires adequate financing. We support the Commonwealth's efforts to seek federal reimbursement for state-funded cost-sharing subsidies, in addition to premium subsidies.

The ACT!! Coalition appreciates the opportunity to provide feedback on the MassHealth 1115 waiver proposal. Should you have any questions, please contact me at (617) 275-2977 or [scurry@hcfama.org](mailto:scurry@hcfama.org). Thank you for your consideration.

Sincerely,



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Senior Health Policy Manager, Health Care For All  
Director, ACT!! Coalition

Cc: Vikki Wachino, Deputy Administrator and Director, Center for Medicaid and CHIP Services  
Eliot Fishman, Director, State Demonstrations Group  
Daniel Tsai, Assistant Secretary for MassHealth



### **ACT!! Coalition Member Organizations**

AARP Massachusetts	Massachusetts Association of Behavioral Health Systems
Action for Boston Community Development	Massachusetts Breast Cancer Coalition
AIDS Action Committee	Massachusetts Building Trades Council
American Cancer Society Cancer Action Network	Massachusetts Business Leaders for Quality, Affordable Health Care
American Heart Association / American Stroke Association	Massachusetts Chapter of the American Academy of Pediatrics
Association for Behavioral Healthcare	Massachusetts College of Emergency Physicians
Boston Center for Independent Living	Massachusetts Communities Action Network
Boston Children's Hospital	Massachusetts Council of Community Hospitals
Boston Medical Center	Massachusetts Immigrant and Refugee Advocacy (MIRA) Coalition
Boston Public Health Commission	Massachusetts Health Council
Cambridge Health Alliance	Massachusetts Hospital Association
Children's Health Access Coalition	Massachusetts Law Reform Institute
Coalition for Social Justice	Massachusetts League of Community Health Centers
Committee of Interns and Residents/SEIU Healthcare	Massachusetts Medical Society
Community Catalyst	Massachusetts Organization for Addiction Recovery
Community Servings	Massachusetts NOW
Disability Policy Consortium	Massachusetts Public Health Association
Episcopal City Mission	NARAL Pro-Choice Massachusetts
Families USA	National Association of Social Workers – Massachusetts Chapter
Greater Boston Interfaith Organization	Neighbor to Neighbor
Greater Boston Legal Services	Partners HealthCare
Health Care For All	Public Policy Institute
Healthcare for Artists	32BJ SEIU New England 615
Health Law Advocates	1199 SEIU United Healthcare Workers East
Home Care Alliance of Massachusetts	Tobacco Free Mass
Joint Committee for Children's Health Care in Everett	Treatment Access Expansion Project
JRI Health	UMass Memorial Health Care
Massachusetts Academy of Family Physicians	
Massachusetts Association of Community Health Workers	